



Atty. Dkt. No. 018792-0180

1631

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hossein A. GHANBARI et al.

Title: COMPOSITIONS CONTAINING BACTERIOPHAGES AND METHOD OF
USING BACTERIOPHAGES TO TREAT INFECTIONS

#6
Plunkett
10/29/01

Appl. No.: 09/583,738

Filing Date: 05/31/2000

Examiner: M. Zeman

Art Unit: 1631

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Box NON-FEE AMENDMENT
Washington, D.C. 20231

Sir:

The following is a response to the Restriction Requirement mailed September 25, 2001, in the above-identified application. It is believed that no fee is due, but should such a fee be due, consider this paragraph a request and authorization to charge the appropriate fee to Deposit Account No. 19-0741.

Applicants hereby provisionally elect, with traverse, Group I, claims 23-36, drawn to methods of treatment using a composition comprising a bacteriophage, for prosecution in the present application.

The traversal is on the grounds that the Examiner has failed to establish that a search of the complete application would be an undue burden as required by MPEP 803. The Examiner concludes that the search and examination of both inventions would not be completely coextensive in scope. However, MPEP 803 states: "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." It is Applicants' position that the Examiner has failed to establish that a search of the entire application constitutes an undue burden. Therefore, it is requested that the entire application be searched and examined.

Applicants, of course, reserve the right to file one or more divisional applications covering the subject matter of the non-elected claims.

Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

Date Oct. 25, 2001

By Mary C. Till

FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5109
Telephone: (202) 672-5538
Facsimile: (202) 672-5399

Mary C. Till
Agent for Applicant
Registration No. 41,545